IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 19.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
And
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.155 of 2006

Sugu @ Sugumar ... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Govt.,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai, Egmore,
Chennai 600 008. ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the petitioner's detention under Act 14 of 1982 vide detention order dated 17.10.2005 on the file of the second respondent herein made in the proceedings No.491 of 2005, set aside the same, and direct the second respondent herein to produce the petitioner's body viz., Sugu @ Sugumar, now confined in Central Prison, Vellore, before Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention, dated 17.10.2005, detaining him as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil

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Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner submitted that there was delay in disposal of the representation of the detenu.

4. The particulars furnished by the learned Additional Public Prosecutor show that the representation dated 27.10.2005 was received by the Government on 02.11.2005, remarks were called for on 03.11.2005 and received from the Sponsoring Authority on 08.11.2005. Thereafter, File was dealt with by the Under Secretary and Secretary on 09.11.2005. Finally, the Minister for Prohibition and Excise passed orders on 10.11.2005. The rejection letter was prepared on 15.11.2005, sent to the Central Prison for service on 16.11.2005 and served to the detenu on 19.11.2005.

5. It is pointed out that though the Minister passed orders on 10.11.2005, there is no reason to take time till 15.11.2005 for preparation of the rejection letter. It is brought to our notice that if we exclude the intervening holidays, viz., on 12.11.2005 and 13.11.2005, the time taken for preparation of the letter comes within the permissible limit of three days, thus, we hold that there is no undue delay as claimed by the learned counsel for the petitioner, accordingly, we reject the first contention.

6. Coming to the second contention, learned counsel for the petitioner, by drawing our attention to paragraph No.4 of the grounds of detention, contended that though the detenu was arrested and remanded only in respect of the adverse case, the Detaining Authority, without referring to the same, merely relied on Crime No.1384 of 2005, on the file of J-1 Saidapet Police Station, which relates to the ground case, and thereafter arrived at the conclusion that there is imminent possibility of the detenu's coming out on bail, which compelled him to pass the detention order.

7. In the light of the said contention, we verified the details relating to the adverse case occurrence that took place on 10.01.2005 and the ground case occurrence that took place on 08.08.2005. The particulars furnished in the Special Report show that the adverse case relates to Crime No.120 of 2005 and the offences referred to therein are punishable under Sections 147, 148, 341, 324, 326, 307 and 506 (ii) IPC; on the other hand, ground case Crime No.1384 of 2005 relates to the offence punishable under Section 302 IPC. It is not in dispute that the Detaining Authority was aware of the details regarding remand etc. in respect of adverse case Cr. No.120 of 2005 as also the particulars pertaining to ground case Crime No.1348 of

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2005. The authority also took note of the fact that the ground case relates to a graver offence, viz., under Section 302 IPC., and relied on the same while arriving at the conclusion regarding the imminent possibility of the detenu coming out on bail. In such circumstances, the decision of the Detaining Authority cannot be faulted with.

8. Learned counsel for the petitioner, by pointing out a decision, dated 27.3.2006, in H.C.P. Nos.1296 & 1298 of 2005, contended that since the detenu was remanded in respect of adverse case, the Detaining Authority should have considered the possibility of his coming out on bail before passing the detention order. We verified the factual details in the said decision. It is seen that the adverse case as well as the ground case in the said decision relate to same offences, viz., under Sections 147, 148, 392, 448 and 506 (ii) IPC. In such circumstances, we are of the view that the said decision is not helpful to the case on hand. It is brought to our notice that, in HCP No.136 of 2004 dated 21.04.2004 and HCP No.292 of 2005 dated 24.11.2005, while considering 'subjective satisfaction' on the part of the Detaining Authority, this Court held that if the Detaining Authority was aware of the relevant fact that the detenu was in remand in respect of a major crime, merely because the Detaining Authority has not referred to the details relating to adverse cases, it would not vitiate the subjective satisfaction arrived at by him and the ultimate detention order passed. In the light of the same and in view of the factual details as stated in the Special Report, we are unable to accept the said contention. Accordingly, the same is liable to be rejected.

9. No other point has been urged before us. Habeas Corpus Petition fails and the same is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI.

To

1. The Secretary to Govt., Prohibition and
   Excise Department, Fort St. George, Chennai-600 009.
2. The Commissioner of Police, Greater Chennai,
   Egmore, Chennai 600 008.

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3. The Superintendent, Central Prison, Vellore.
   (In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

+1cc to Mr.M.N.Balakrishnan, Advocate Sr 26097

JE (CO)
km/3.7.

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